IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 23348 of 2002

Between:

M/s B.S.Applied Computer Services Ltd,
609, 6th Floor, Topaz Building, Punjagutta,

Hyderabad-500 082. A.P. rep. by its Manager,

Sri Kunwar Bahadur Gour.

..... PETITIONER

AND

1.The Asst.P.F.Commissioner (ENF), Office of the Regional P.F.Commissioner, Barkatpura, Hyderabad.
2. The Enforcement Officer, Office of the Regional

P.F.Commissioner, Barkatpura, Hydrabad.
3. The Recovery Officer, Office of the Regional

P.F.Commissioner, Barkatpura, Hyderabad.
4. Employees Provident Fund Appellate Tribunal, Skylark Marg,

60, Nehru Place, New Delhi-19.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue writ, order or direction particularly one in the nature of Writ of Mandamus declaring the action of the third respondent Recovery Officer in issuing impugned Notice of Demand No.AP/38281/Enf.Cir-I/Z.V/02, dated 18-10-2002 for the recovery of the said amount of Rs.2,87,326/- towards the alleged P.F.dues for the period from

1-3-1999 to 31-12-2001 from the petitioner as arbitrary, illegal and unsustainable under law and to forbear from recovery of any amount from the petitioner, pending disposal of the statutory appeal by the fourth respondent.

Counsel for the Petitioner: Mr.N.VENKATRAMA REDDY

Counsel for the Respondents: Mr. R.N. REDDY,

STANDING COUNSEL FOR EPF.

The Court made the following :

ORAL ORDER:

The petitioner questions the notice of demand dated 18-10-2002 issued by third respondent issued for the recovery of amount of Rs.2,87,326/- towards the provident fund dues for the period from 1-3-1999 to 31-12-2001. The said notice was issued pursuant to the determination made by first respondent by order dated 15-4-2002 stating that the said amount of Rs.2,87,326/- is due from the petitioner company towards provident fund dues. It is stated that against the order passed by first respondent, the petitioner has already filed an appeal before fourth respondent on 12-6-2002. This writ petition is filed on the ground that the appellate authority is not functioning.

This Court while admitting the writ petition granted interim stay on condition of the petitioner depositing half of the amount mentioned in the notice of demand issued by third respondent. It is stated that, as directed by this Court, half of the amount has been deposited before first respondent.

Both the learned counsel submit that the condition precedent to entertain the appeal is to deposit 75% of the amount demanded, but this Court, in similar matters, directed to entertain the appeal on deposit of half of the amount, which will be subject to the result of the appeal.

Since the petitioner has already availed the statutory remedy of appeal before fourth respondent and the same is still pending, I am of the opinion that it may not be just and proper for this Court to decide the questions involved in this writ petition.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing stay of recovery of remaining half of the amount sought to be recovered from the petitioner as the petitioner has already deposited half of the amount demanded, pending disposal of the appeal before fourth respondent. It is

made clear that the amount already deposited by the petitioner will be subject to the result of the appeal. The appellate authority may dispose of the appeal as expeditiously as possible. No order as to costs.

20th August 2004. **(V.ESWARAIAH, J.)**

ARS

Sd/- MOHD. MAHMOOD ALI

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The Asst.P.F.Commissioner (ENF), Office of the Regional P.F.Commissioner, Barkatpura, Hyderabad.
2. The Enforcement Officer, Office of the Regional

P.F.Commissioner, Barkatpura, Hydrabad.
3. The Recovery Officer, Office of the Regional

P.F.Commissioner, Barkatpura, Hyderabad.
4. he Presiding Officer, Employees Provident Fund Appellate Tribunal, Skylark Marg,

60, Nehru Place, New Delhi-19.

5.Two C.D.copies.

6. One cc to R.N. REDDY, ADVOCATE

TY/ZB

HIGH COURT

DATED: 20.08.2004

ORAL ORDER

W.P. NO. 23348 OF 2002

DISPOSING THE W.P.

WITHOUT COSTS